

BACKUS | BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702) 872-5555 FAX: (702) 872-5545

Jack P. Burden, Esq.
 Nevada State Bar No. 6918
 Jacquelyn Franco, Esq.
 Nevada State Bar No. 13484
BACKUS | BURDEN
 3050 South Durango Drive
 Las Vegas, NV 89117
 (702) 872-5555
 (702) 872-5545
jburden@backuslaw.com
jacquelynfranco@backuslaw.com
 Attorneys for Defendants,
Albertson's LLC and
Albertson's Companies, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES BLANCH, individually,)

Plaintiff,)

vs.)

ALBERTSON'S LLC, A Foreign Limited-)
 Liability Company; ALBERTSON'S)
 COMPANIES, INC., a Foreign Corporation;)
 DOE EMPLOYEE; DOE DEFENDANT 1-10,)
 inclusive; ROE CORPORATION 1-)
 10,inclusive,)

Defendants.)

Case No. 2:22-cv-00599-JCM-NJK

JOINT PRETRIAL ORDER

After pretrial proceedings in this case,

IT IS ORDERED:

I. NATURE OF THE ACTION

This is an action arising from an incident that occurred on June 30, 2020, at the Albertsons LLC grocery store located at 5500 Boulder Hwy, Las Vegas, Nevada 89122 (the "Premises"). Plaintiff entered the store and proceeded through the floral department when he slipped and fell from spilled water. (the "Incident").

II. STATEMENT OF JURISDICTION

Defendants removed this action to the United States District Court for the District of

Nevada on April 8, 2022, pursuant to 28 U.S.C. § 1441(b). Defendants' removal of this action was timely pursuant to 28 U.S.C. § 1446(b)(3).

This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because Plaintiff is and was at all relevant times a domiciliary of the State of Nevada, the amount in controversy exceeds \$75,000.00 exclusive of costs and interest, and Defendants are and were at all relevant times a corporation duly incorporated in the state of Delaware and with a principle place of business in the State of Delaware.

Venue is properly laid in the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1391(b)(2).

III. ADMITTED FACTS

The following facts are admitted by the parties and require no proof:

1. On or about June 30, 2020, Defendant ALBERTSON'S, LLC, owned and operated the ALBERTSON'S grocery store located at 5500 Boulder Hwy, Las Vegas, Nevada 89122;
2. On or about June 30, 2020, Plaintiff JAMES BLANCH was lawfully present at the ALBERTSON'S grocery store located at 5500 Boulder Hwy, Las Vegas, Nevada 89122; and
3. Defendant ALBERTSON'S LLC owed Plaintiff JAMES BLANCH a duty to provide a reasonably safe premise for his visit, as an invited person to the Premises.

IV. UNCONTESTED FACTS

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

1. On June 30, 2020, the COVID 19 pandemic and related restrictions were in place;
2. On June 30, 2020, an unknown customer knocked down the vase in the floral department, causing water to be on the ground;
3. On June 30, 2020, as he was walking through the floral department, Plaintiff JAMES BLANCH slipped and fell from water that spilled from a vase;

4. On or about June 30, 2020, Richard Botto was an employee and working at the ALBERTSON'S grocery store located at 5500 Boulder Hwy, Las Vegas, Nevada 89122; and
5. On or about June 30, 2020, Daniel Munoz Becera was an employee and working at the ALBERTSON'S grocery store located at 5500 Boulder Hwy, Las Vegas, Nevada 89122.

V. ISSUES TO BE TRIED

The following are the issues of fact to be tried and determined at trial:

1. Whether Defendant ALBERTSON'S LLC knew, or should have known, that the floor was wet;
2. Whether Defendant ALBERTSON'S LLC failed to properly warn Plaintiff JAMES BLANCH of a wet floor;
3. Whether Defendant ALBERTSON'S LLC was negligent;
4. Whether Plaintiff JAMES BLANCH was contributorily negligent;
5. Whether Plaintiff JAMES BLANCH sustained injuries as a result of slipping and falling on the clear liquid;
6. Whether Defendant ALBERTSON'S LLC's alleged failure to warn Plaintiff JAMES BLANCH of known hazard legally and proximately caused Plaintiff JAMES BLANCH's complained injuries;
7. The nature and extent of injuries sustained by Plaintiff JAMES BLANCH as a result of the slip and fall;
8. Whether the medical treatment that Plaintiff JAMES BLANCH received was reasonable, necessary, and related to the injuries that she sustained;
9. Whether Plaintiff JAMES BLANCH will be reasonably certain to incur medical expenses in the future as a result of the Incident. If so, whether such future medical expenses are reasonable and customary;
10. Whether Plaintiff JAMES BLANCH is entitled to general damages, including pain and suffering, as a result of the Incident;

11. Whether Plaintiff JAMES BLANCH mitigated his injuries and damages;
12. Whether Plaintiff had a pre-existing condition or disability on June 30, 2020;
13. The amount of negligence, if any, attributable to each party in this litigation; and
14. Whether the subject incident was the proximate cause of Plaintiff JAMES BLANCH's claimed damages, as well as the extent of said damages.

VI. ISSUES OF LAW

The following are the issues of law to be tried and determined at trial:

1. Whether Defendant ALBERTSON'S LLC owed Plaintiff JAMES BLANCH a duty of due care while she was physically present on Defendant ALBERTSON'S LLC'S premises.
2. Whether Defendant ALBERTSON'S LLC breached a duty owed to Plaintiff JAMES BLANCH.
3. Whether Defendant ALBERTSON'S LLC's alleged breach caused Plaintiff JAMES BLANCH's alleged damages.

VII. EXHIBITS

- a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

BATES NO.	DESCRIPTION
HH000001-HH000072	Medical bills and records, Henderson Hospital
DR000001	Medical Bill, Desert Radiologists
SER000001	Medical Bill, Shadow Emergency Physicians
NBC000001-NBC000144	Medical bill and records, Neck and Back Clinics
LVR000001-LVR000009	Medical bills and records, Las Vegas Radiology
PIN000001-PIN000043	Medical bills and records, Pain Institute of Nevada
SDMI000001-SDMI000021	Medical bills and records, Steinberg Medical Diagnostics
WM000001-WM000391	Medical bills and records, Dr. William Muir
AICS000001-AICS000012	Medical bills and records, Anesthesia and Intensive Care Specialists
DN000001-DN000019	Medical bills and records, Desert Neurology
CHO000053-CHO000187	Medical bills and records, Neurocare of Nevada
RPS000001-RPS000007	Medical bills and records, Releviu Pain Specialists
BAU000001-BAU000054	Medical bills and records, Janet Bauman, Phd
TMC000001-TMC000040	Medical bills and records, TruCare Medical Center
LVNOR000001-LVNOR000072	Medical bills and records, Las Vegas Neurosurgery, Orthopedics and Rehabilitation

BATES NO.	DESCRIPTION
ALB00001	Surveillance
ALB00002-00004	Albertsons Store Report
ALB00005	Customer Incidence Report

The medical bills and records disclosed by Plaintiff include the forgoing. Defendants stipulate that the medical bills and records disclosed by Plaintiff in this matter are authentic and, therefore, Plaintiff will not be required to call the Custodian of Records to testify as to authenticity. However, Defendants do not stipulate that the medical treatments and bills are reasonable, customary, and causally related to Plaintiff's injuries at issue.

b) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated:

i. Plaintiff's exhibits and Defendants' objections to them:

BATES NO.	DOCUMENT	DEFENDANTS' OBJECTIONS
PHO000001- PHO000024	Twenty-four (24) pre-accident photographs of Plaintiff	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Reasonableness [N.R.S. 50.275, 50.285] Hearsay [N.R.S. 51.065]
TBD	Dr. Muir, MD Curriculum Vitae, Life Care Plan and Report	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Reasonableness [N.R.S. 50.275, 50.285]

In addition to the above objections:

- a. Defendants reserve the right to make further objections regarding Plaintiff's proposed exhibits, including objections under FED. R. EVID. 402 and FED. R. EVID. 403.
- b. Defendants further object to the extent that any exhibits involve matters in violation of any orders of the Court.
- c. Defendants reserve the right to supplement or amend their objections as exhibits are introduced and to the extent that additional documents/exhibits, if any, are identified.
- d. Defendants object to all disclosures which are not properly authenticated at the time of trial.

ii. Defendants' exhibits and Plaintiff's objections to them:

BACKUS | BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

BATES NO.	DESCRIPTION	PLAINTIFF'S OBJECTIONS
ALB00006-00007	Sweep Log	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00194-00197	Time and Attendance Report 06-30-2020	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00198-00202	Employee Punches Report 06-30-2020	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00203-00341	General Safety Full	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00342-00429	SW Division Handbook Final	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00430	Sweep Best Practices	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305]
ALB00431-00438	Rimoldi MRR and FRCP 35 Report 09.19.2022	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00439-00443	Rimoldi – Curriculum Vitae	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00444-00448	Elizabeth Davis, Phd – Report – 10-24-22	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00449-00451	Elizabeth Davis, Phd – CV	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00473-00474	Michael McKenna – Report [Final] 10-5-22	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00475-00479	Michael McKenna, MD – Curriculum Vitae	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]
ALB00487-00488	Rimoldi Supplement report 12-15-22	Authentication [N.R.S. 52.015] Foundation [N.R.S. 50.025, 50.275, 50.285, 50.305] Hearsay [N.R.S. 51.065]

- c) Whether the parties intend to present electronic evidence for purposes of jury deliberations:

1 Plaintiff intends to present electronic evidence in the form of jpegs, pdfs, etc., for purposes
2 of jury deliberations.

3 Defendants intend to present evidence in electronic format to jurors for the purposes of
4 jury deliberations. Although it is not known at this time which exhibits will be electronically
5 presented, Defendants will provide electronic evidence in an electronic format compatible with the
6 Court's electronic jury evidence display system. Defendants will contact the courtroom
7 administrator for instructions about how to prepare evidence in an electronic format and other
8 requirements for the Court's electronic jury evidence display system.

9 d) Depositions:

10 i. Plaintiff will offer the following depositions:

- 11 a. Daniel Becerra
- 12 b. Jody Wood
- 13 c. Richard Botto
- 14 d. Stephen Ray

15 ii. Defendants will offer the following depositions:

- 16 a. Plaintiff, James Blanch
- 17 b. William Muir, MD

18 e) Objections to depositions:

- 19 i. Plaintiff objects to defendants' depositions as follows: Plaintiff reserve their
20 objections until the time of trial.
- 21 ii. Defendants object to Plaintiff's depositions as follows: Defendants reserve
22 their objections until the time of trial.

23 **VIII. WITNESSES**

24 The following witnesses may be called by the parties at trial:

25 (a) Plaintiff's witnesses:

- 26 1. James Blanch
- 27 Richard Harris, Esq.
- 28 Samantha A. Martin, Esq.
- RICHARD HARRIS LAW FIRM
- 801 South Fourth Street

BACKUS | BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702) 872-5555 FAX: (702) 872-5545

- 1 Las Vegas NV, 89101
Tel: (702) 444-4444
- 2
- 3 2. Richard Botto, *former* third key manager
109 Greenlawn St
Mission, TX 78572
Tel: (702) 981-9005
- 4
- 5
- 6 3. Daniel Munoz Becerra, Courtesy Clerk
558 Laughlin Way
Las Vegas, NV 89110
Tel: (702) 481-5070
- 7
- 8
- 9 4. Albertsons LLC 30(b)(6) Corporate Witness
c/o Jack Burden, Esq.
BACKUS | BURDEN
3050 S. Durango Drive
Las Vegas, NV 89117
Tel: (702) 872-5555
- 10
- 11
- 12
- 13 5. Jewel Blanch
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444
- 14
- 15
- 16
- 17 6. Joel Looney
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444
- 18
- 19
- 20
- 21
- 22 7. Felicia Giffien
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444
- 23
- 24
- 25
- 26 8. Doris Love
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
- 27
- 28

BACKUS | BURDEN

3050 SOUTH DURANGO

LAS VEGAS, NEVADA 89117

TELE: (702) 872-5555 FAX: (702) 872-5545

Las Vegas NV, 89101
Tel: (702) 444-4444

9. Charles Johnson
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444

10. Antonio Blanch
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444

11. Derrick Johnson
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444

12. Dr. William Muir
653 N. Town Center Drive, Suite 210
Las Vegas, Nevada 89144

13. Dr. Mark Kabins, MD
Las Vegas Neurology, Orthopedics and Rehabilitation
501. S. Rancho Drive, Suite I-67
Las Vegas, Nevada 89106

(b) Defendants' witnesses:

1. James Blanch
Richard Harris, Esq.
Samantha A. Martin, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas NV, 89101
Tel: (702) 444-4444

2. Richard Botto, *former* third key manager
109 Greenlawn St
Mission, TX 78572

BACKUS | BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

Tel: (702) 981-9005
To be contacted through counsel

3. Daniel Munoz Becerra, Courtesy Clerk
558 Laughlin Way
Las Vegas, NV 89110
Tel: (702) 481-5070
4. Stephen Carr, security
2800 S. Eastern Ave.
Las Vegas, NV 89169
Tel: (702) 845-6814
5. Albertsons LLC 30(b)(6) Corporate Witness
c/o Jack Burden, Esq.
BACKUS | BURDEN
3050 S. Durango Drive
Las Vegas, NV 89117
Tel: (702) 872-5555
6. Reynold Rimoldi
Nevada Orthopedic & Spine Center
7455 W. Washington Avenue, Suite 160
Las Vegas, Nevada 89128
Tel: (702) 878-0393
7. Michael John McKenna, MD
3465 W. SAHARA AVE. SUITE 111-419
LAS VEGAS, NV 89117
Tel: (702) 334-0260
8. Elizabeth Davis, PhD, RN, CRRN, CLCP, CRC, IPEC
Life Care Resources Inc.
P.O. Box 754
Cedar Bluff, Virginia 24609
Tel: (276) 963-7736

IX. TRIAL AVAILABILITY

The attorneys have met and jointly offer the three (3) following trial dates:

- a. January 8, 2024
- b. January 29, 2024
- c. February 5, 2024

It is expressly understood by the undersigned that the Court will set the trial of this matter on one of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the

1 court's calendar.

2 **X. LENGTH OF TRIAL**

3 It is estimated that the trial will take a total of 7 days.

4 APPROVED AS TO FORM AND CONTENT:


5
6
7 /s/ Samantha Martin
Signature of Attorney for Plaintiff

/s/ Jacquelyn Franco
Signature of Attorney for Defendants

8
9 **XI. ACTION BY THE COURT**

10 This case is set for court/jury trial on the fixed/stacked calendar on the **February 22,**
11 **2024, at 9:00 a.m.** Calendar Call is set for **January 31, 2024, at 1:30 p.m.**

12
13 DATED: May 3, 2023.

14
15 
16 UNITED STATES DISTRICT JUDGE

17
18
19
20
21
22
23
24
25
26
27
28
BACKUS | BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545